



UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

CHAMBERS OF  
Paula Xinis  
UNITED STATES DISTRICT JUDGE

6500 Cherrywood Lane  
Greenbelt, MD 20770  
(301) 344-0653

February 22, 2022

Re: 20-2540, *Association for Education Fairness v. Montgomery County Board of Education, et al.*

**LETTER ORDER**

Counsel,

On January 5, 2022, the Court held a recorded status conference (ECF No. 58) to discuss the forthcoming motion to intervene by five nonprofit organizations (“Proposed Intervenors”). Following the status conference, the Court issued a scheduling order. *See* ECF No. 59. The motion to intervene is now fully briefed (ECF Nos. 69, 81–83), and the filing deadline for Defendants’ motion to dismiss is fast approaching.

Proposed Intervenors aver that “their interests are not adequately represented in this litigation” and that intervention allows them to “build a thorough and comprehensive record” that will aid the Court in its resolution of this matter. *See* ECF No. 69-1 at 6. Plaintiff Association for Education Fairness (“AFEf”) does not dispute that Proposed Intervenors “have an interest in the subject matter of this case that would be adversely affected” if the Court rules in AFEf’s favor and accordingly argues that their participation as *amici* would be entirely appropriate. *See* ECF No. 82 at 5, 13. Proposed Intervenors respond that without status as a party, “they cannot access the full discovery record, nor help develop that record.” ECF No. 83 at 6 n.1.

Because the crux of this dispute concerns the propriety of intervention if the case proceeds to *discovery*, the Court shall defer resolution of the pending motion to intervene until after it decides whether dismissal of the Amended Complaint is warranted. To that end, the Court will permit Proposed Intervenors to participate as *amici*; they will be permitted to file an opening pleading in support of dismissing the Amended Complaint, as well as a reply pleading

consistent with the operative scheduling order below.<sup>1</sup> See D. Md. Loc. R. 105.12(f).

February 28, 2022	Defendants' Motion to Dismiss (limited to 20 pages, exclusive of exhibits)
	Proposed Intervenor's pleading in support of dismissal (limited to 20 pages, exclusive of exhibits)
March 28, 2022	Response to Motion to Dismiss (limited to 30 pages, exclusive of exhibits)
April 11, 2022	Reply in Support of Motion to Dismiss (limited to 10 pages, exclusive of exhibits)
	Proposed Intervenor's Reply (limited to 10 pages, exclusive of exhibits)

The Court will resolve the Motion to Intervene together with the Motion to Dismiss.

Although informal, this correspondence constitutes an Order of the Court and shall be docketed as such.

Sincerely,

/s/  
PAULA XINIS  
United States District Judge

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<sup>1</sup> The Court shall increase the page limitation for Plaintiff's responsive brief from 20 pages to 30 pages, to account for Proposed Intervenor's participation as *amici*.